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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,035	11/02/2000	Haruo Oba	112857-265	6839

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BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

EXAMINER

MICHALSKI, JUSTIN I

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/705,035	Applicant(s) OBA ET AL.	
	Examiner Justin Michalski	Art Unit 2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. Foreign Patent Document EP 07 170215 cited on the IDS Filed 7 January 2005 has not been considered since EP 07 170215 could not be found by the office and no copy was submitted by the applicant. The Office notes that Foreign Patent Document JP 7-170215 was considered by the Office and acknowledged on the IDS filed 9 June 2003.

Specification

2. The disclosure is objected to because of the following informalities: On page 13, lines 18-20, "The same symbols as those used in Fig. 2 are assigned to the portions corresponding to those shown in Fig. 2" is unclear and believed to be a minor word processing error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession

of the claimed invention. The specification, while providing support (as discussed on page 12, line 16 through page 14 of the specification) for a portable audio listening apparatus comprising: means for generating an audio modulated signal modulated in a band in which a signal is transferred by using a human body of a single user; a first electrode (Fig. 7, 201) for outputting the generated audio modulated signal; a second electrode (Fig. 8, electrode 39, corresponding to electrode 21 shown in Fig. 1) for receiving the audio modulated signal transferred through the first electrode and then through the body of the single user, with a transmission path of the audio modulated signal not being capacitively coupled to ground; means for demodulating the audio modulated signal received by the second electrode (Fig. 8, demodulator 72), and downloading said demodulated signal into said audio listening apparatus for storage (Fig. 8, playback section 30); and means for generating audible sound according to the demodulated signal stored in said listening apparatus (Fig. 7, headphone 10). The specification does not reasonably provide support for wherein said second electrode (Fig. 8, electrode 39, corresponding to electrode 21 shown in Fig. 1) is attached to the audible sound generating means and configured to fit on or around at least one ear to direct the audible sound into the at least one ear of the single user.

The specification discloses page 13, lines 20 through 22, "In Fig. 8, an electrode 39 (corresponding to the electrode 21 shown in Fig. 1) is used for receiving a signal sent from the audio-signal transmission apparatus 200." The specification further discloses on page 14, lines 8-9 that "the musical data is sent to an audio-signal playback section 30 and recorded" (i.e. downloaded). There is no disclosure as to the

second electrode being attached to the audible sound generation means and configured to fit on or around at least one ear to direct the audible sound into the at least one ear of the user.

The specification does disclose an electrode (earpads 13) attached to the audible sound generating means (Headphones 10) (paragraph bridging pages 6 and 7) which receives signals from the playback apparatus 20 (Page 7, lines 12-19 and Figures 1 and 7). Even assuming that electrode 21 is the first electrode and earpads 13 are the second electrode, there is no disclosure of downloading and storing the demodulated signal received by earpads 13.

Claim 2 contains the limitation, "wherein said second electrode is attached to the audible sound generating means and configured to fit on or around at least one ear of the single user to direct the audible sound into the at least one ear of the single user" and is rejected for reasons stated above apropos of claim 1.

Claim 10 contains the limitation, "wherein the second electrode is attached to the audible sound generating means and configured to fit on or around the user's at least one ear to direct the audible sound into the user's at least one ear" and is rejected for reasons stated above apropos of claim 1.

Claims 3-8, 11, and 12 are dependent on claims 1, 2, or 10 and therefore rejected for the reasons as stated above.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (571)272-7524. The examiner can normally be reached on M-F 7-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571)272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JIM



SINH TRAN
SUPERVISORY PATENT EXAMINER